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December 22, 2011

Via Facsimile

Hon. Paul G. Gardephe
United States District Judge
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street
New York, NY 10007-1312
Fax: (212)-805-7986

MEMO ENDORSED

The Application is granted.

SO ORDERED:

Paul G. Gardephe
Paul G. Gardephe, U.S.D.J.

Dated: *Dec. 23, 2011*

*The Conference is adjourned
to March 13, 2012 at 10:00 A.M.*

Re: **Cammeby's Funding III, LLC v. CapitalSource Finance LLC, No. 11-cv-3644 (PGG)**
First Request for Extension of Discovery Deadline

Judge Gardephe:

We represent defendant/counterclaimant CapitalSource Finance LLC ("CapitalSource") in the above-referenced action. We write on behalf of CapitalSource and plaintiff/counterdefendant Cammeby's Funding III, LLC ("Cam III") jointly to request an extension of the discovery schedule set forth in Your Honor's Civil Case Management Plan and Scheduling Order entered on October 6, 2011 (the "Scheduling Order"). Pursuant to the Scheduling Order, the initial 90 day fact discovery period is set to close on January 11, 2012, and expert discovery on February 8, 2012. The parties request that those dates be extended by approximately 60 days. No prior request for an extension of any dates in the Scheduling Order has been made; and this request is not made for the purpose of delay.

This case involves the parties' respective rights and obligations under that certain Second Amended Intercreditor and Subordination Agreement (the "Intercreditor Agreement") by and between CapitalSource, as senior lender, and Cam III, as junior lender. As referenced in prior correspondence and pleadings, there is a state court proceeding, *Schron v. Grunstein*, Index No. 650702/2010 (N.Y. Sup. Ct.) (the "State Court Action"), to which Cam III, CapitalSource's borrower SavaSeniorCare LLC ("Sava"), and its parent SVCARE Holdings LLC ("SVCARE") are parties. As outlined in CapitalSource's letter to the Court dated December 2, 2011, CapitalSource believes that the discovery demanded and conducted in the State Court Action is directly relevant to the claims at issue in the present action; and CapitalSource has expended considerable efforts to obtain it. However, much of it is subject to a Confidentiality Order entered by the state court.

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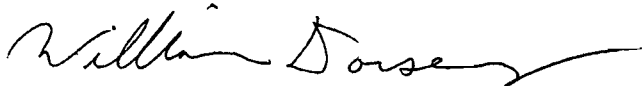
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Despite the issuance of subpoenas and document requests for this information, the exchange of written discovery between the parties to this action, and the entry of the modified protective order by this Court on December 6th, CapitalSource still has not received the bulk of the requested documents from the State Court Action, all of which CapitalSource maintains are critical to the claims asserted in this action and predicates to party depositions in this action – several of which have already been noticed and postponed.

Rather than burden this Court with potentially unnecessary expedited discovery motions over the holidays, however, the parties believe that a 60 day extension of time may help the parties amicably resolve the delayed production issues involving the State Court Action and allow for sufficient time to complete depositions. In the meantime, the parties continue to engage in meaningful settlement discussions.

Accordingly, the parties respectfully request that the Court modify the Scheduling Order by extending the fact discovery deadline and Rule 26(a)(2) disclosure date to and including **March 15, 2012**, and the expert discovery deadline to and including **April 30, 2012**. The parties further request that the deadline set forth in paragraph 10 of the Scheduling Order for letters regarding post-discovery dispositive motions be extended to and including **May 1, 2012**, and that the next pre-trial conference, presently scheduled for January 11, 2012, be adjourned to another date convenient to the Court.

Respectfully submitted,



William J. Dorsey

WJD:blc/50699310

cc: Howard Kleinhendler, Esq. Counsel to Plaintiff (by e-mail)